

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Northern Division**

JARED T. BREEN *

3806 Apple Way *

Marietta, Georgia 30066 *

Plaintiff *

v. * **Civil Action No.** _____

7TH INNING STRETCH, LP *

6400 Hobbs Road *

Salisbury, Maryland 21804 *

Serve on: *

Chris Bitters, Resident Agent *

6400 Hobbs Road *

Salisbury, Maryland 21804 *

and *

WICOMICO COUNTY, MARYLAND *

Serve on: *

R. Wayne Strausburg *

Government Office Building *

125 North Division Street *

Salisbury, Maryland 21801 *

Defendants

* * * * *

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, Jared T. Breen, by his undersigned attorneys, pursuant to 28 U.S.C. § 1332 and the Federal Rules of Civil Procedure, to bring suit against the Defendants, 7th Inning Stretch, LP and Wicomico County, Maryland, and further states as follows:

PARTIES

1. Plaintiff, Jared T. Breen (“Breen”) is a citizen and resident of Cobb County, Georgia who maintains his domicile at 3806 Apple Way, Marietta, Georgia, 30066..

2. Defendant, 7th Inning Stretch, LP (“7th Inning Stretch”) is a Maryland limited partnership with its principal office located at 6400 Hobbs Road, Salisbury, Maryland 21804.

3. Defendant, Wicomico County, Maryland (“Wicomico County”) is a municipality and local government in the State of Maryland.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the parties and subject matter of this action pursuant to 28 U.S.C. § 1332 in that there is diversity of citizenship and the amount in controversy exceeds \$75,000.00.

5. This Court is the proper venue for this action pursuant to 28 U.S.C. § 1391.

FACTS COMMON TO ALL COUNTS

6. In 2013, Breen achieved his life-long dream of playing professional baseball when he was drafted by the Major League Baseball team, the Baltimore Orioles Limited Partnership (the “Orioles”).

7. The Orioles directed Breen to play for their Minor League Baseball affiliate, the Delmarva Shorebirds (“Shorebirds”) in 2014 and 2015. Defendant, 7th Inning Stretch owns the Shorebirds.

8. The Shorebirds play their home games in the Arthur W. Perdue Stadium (the “Stadium”) outside Salisbury, Maryland. Wicomico County owns the Stadium.

9. Wicomico County planned, designed, developed and oversaw construction of the Stadium, which opened in 2006.

10. Upon information and belief, 7th Inning Stretch operates and/or leases the Stadium pursuant to an agreement with Wicomico County.

11. Inside the Stadium, running parallel to the third-base foul line, the Defendants designed, constructed, and/or maintained a 6-foot high concrete wall to separate the playing field from a spectator seating area (the “Wall”).

12. At all relevant times, contrary to applicable safety standards and practices, the Wall was left unpadded so that its vertical concrete face was exposed to the baseball field of play.

13. On July 3, 2015, the Shorebirds hosted a baseball game at the Stadium (the “Game”). The Game was heavily attended. Those present included Breen’s girlfriend, her mother, and her step-father.

14. During the first inning of the Game, Breen played at the shortstop position. The opposing team’s batter hit a pitch, causing the baseball to arc high into the air towards the third-base outfield. Breen was in the vicinity of the baseball and had only seconds to run and try to catch it.

15. Breen tracked the baseball by looking over his shoulder toward home plate while planning to catch the ball, which was heading toward the third-base outfield. While keeping his gaze focused on the ball and running under its arc, Breen violently collided with the unprotected and unpadded Wall (the “Accident”).

16. Breen's right foot, right knee, and head first struck the Wall, followed by his entire body. He immediately fell to the ground and could not get up or move his legs. He suffered incredible pain and discomfort after the Accident.

17. Medical personnel attended to Breen where he fell, within the sight of the spectators. His injuries were so severe that attending medical personnel cut away his uniform and bound him in the fetal position to immobilize his spine. An ambulance was brought onto the field to transport Breen to Peninsula Regional Medical Center in Salisbury, Maryland.

18. As a result of the Accident, Breen suffered numerous serious injuries, including a fractured right patella, a broken orbital, a concussion, a fractured nose, a punctured sinus, and trauma to his back.

19. Despite months of treatment and rehabilitation since the Accident, Breen has not recovered entirely from his injuries, leaving him permanently partially disabled. The Accident ended his dream of playing professional baseball.

COUNT I
(Negligence as to Wicomico County)

20. The provisions of Paragraphs 1 through 19 are incorporated by reference as if fully set forth herein.

21. The height, material, location, construction, design, and maintenance of the Wall created a defective and dangerous condition for baseball players at the Stadium.

22. Defendant, Wicomico County was aware of the pre-existing defective and dangerous condition presented by the Wall prior to entering into an agreement with 7th Inning

Stretch for the operation of the Stadium. As the Stadium owner, Wicomico County owed Breen a non-delegable duty of care to provide and maintain the safety of the premises.

23. Wicomico County breached its duty of care to Breen by failing to remedy or adequately warn of the dangerous condition presented by the Wall including, without limitation, implementing basic industry-wide safeguards such as attaching protective pads to the Wall. Indeed, following this Accident, such padding was installed on the Wall.

24. The breach of this duty of care by Wicomico County proximately caused serious, painful, and permanent injuries to Breen. All of the injuries sustained by Breen were caused solely by the negligence of Wicomico County, without any contributory negligence on the part of Breen.

WHEREFORE, Plaintiff, Jared T. Breen demands judgment against Defendant Wicomico County, Maryland, for an amount exceeding \$75,000 in compensatory damages, plus interest, costs, and such other and further relief as this Court deems necessary and proper.

COUNT II
(Negligence as to 7th Inning Stretch)

25. The provisions of Paragraphs 1 through 24 are incorporated by reference as if fully set forth herein.

26. The aforesaid dangerous, defective and hazardous condition presented by the Wall was fully known to the Defendant, 7th Inning Stretch, at the time it entered into an agreement with Wicomico County to lease and/or operate the Stadium. 7th Inning Stretch also was fully aware of this hazard on July 3, 2015.

27. As the operator/leasee of the Stadium, Defendant, 7th Inning Stretch was responsible for the maintenance and control of the premises. As such, 7th Inning Stretch owed a duty of care to Breen to exercise reasonable care in maintaining the Stadium in a safe condition, suitable for minor league professional baseball games.

28. Defendant, 7th Inning Stretch breached its duty of care owed to Breen by failing to both maintain the Wall in a safe condition or adequately warn of the dangerous condition of the Wall, including, without limitation, implementing basic safeguards such as attaching protective pads to the Wall. Indeed, following this Accident, such padding was later installed on the Wall.

29. The breach of the duty of care owed to Breen by 7th Inning Stretch proximately caused him to suffer serious, painful, and permanent injuries. All such injuries were caused solely by the negligence of 7th Inning Stretch, without any contributory negligence by Breen.

WHEREFORE, Plaintiff Jared T. Breen demands judgment against 7th Inning Stretch, LP for an amount exceeding \$75,000 in compensatory damages, plus interest, costs, and such other and further relief as this Court deems necessary and proper.

COUNT III
(Negligent Design and Construction as to Wicomico County)

30. The provisions of Paragraphs 1 through 29 are incorporated by reference as if fully set forth herein.

31. As the developer of the Stadium, Wicomico County owed foreseeable invitees such as Breen a duty to ensure that the Stadium was designed and constructed free of unreasonably dangerous conditions.

32. Wicomico County breached its duty to Breen by overseeing and approving the design and construction of the Wall, including, without limitation, the height, the material used, the location, and the failure to incorporate standard protective elements such as adequate padding on an area where a baseball player's potential impact with the Wall was reasonably foreseeable.

33. The breach of this duty of care by Wicomico County proximately caused serious, painful, and permanent injuries to Breen. All of the injuries sustained by Breen were caused solely by the negligence of Wicomico County, without any contributory negligence on the part of Breen.

WHEREFORE, Plaintiff Jared T. Breen demands judgment against Defendant Wicomico County, Maryland for an amount exceeding \$75,000 in compensatory damages, plus interest, costs, and such other and further relief as this Court deems necessary and proper.

/s/ Russell J. Pope
Russell J. Pope
Bar No. 03645
TREANOR, POPE & HUGHES, P.A.
500 York Road
Towson, Maryland 21204
Tel: (410) 494-7777
Fax: (410) 494-1658
rjpope@tph-law.com

*Attorneys for Plaintiff,
Jared T. Breen*

DEMAND FOR JURY TRIAL

The Plaintiff, Jared T. Breen, pursuant to Rule 38 of the Federal Rules of Civil Procedure, hereby demands a trial by jury on all issues so triable in this action.

/s/ Russell J. Pope
Russell J. Pope
Bar No. 03645
TREANOR, POPE & HUGHES, P.A.
500 York Road
Towson, Maryland 21204
Tel: (410) 494-7777
Fax: (410) 494-1658
rjpope@tph-law.com

*Attorneys for Plaintiff,
Jared T. Breen*

JS 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS JARED T. BREEN 3806 Apple Way Marietta, Georgia 30066 (b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES) (c) Attorneys (Firm Name, Address, and Telephone Number) Russell J. Pope, Esq., Treanor Pope & Hughes, P.A., 500 York Road, Towson, Maryland 21204 (410) 494-7777 / rjpoppe@tph-law.com	DEFENDANTS 7th Inning Stretch, LP, et al. 6400 Hobbs Road Salisbury, Maryland 21804 County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known) _____
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																								
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left; border-bottom: 1px solid black;">(For Diversity Cases Only)</th> <th style="text-align: center; border-bottom: 1px solid black;">PTF</th> <th style="text-align: center; border-bottom: 1px solid black;">DEF</th> <th style="text-align: left; border-bottom: 1px solid black;">Incorporated or Principal Place of Business In This State</th> <th style="text-align: center; border-bottom: 1px solid black;">PTF</th> <th style="text-align: center; border-bottom: 1px solid black;">DEF</th> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td></td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>	(For Diversity Cases Only)	PTF	DEF	Incorporated or Principal Place of Business In This State	PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input checked="" type="checkbox"/> 1		<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
(For Diversity Cases Only)	PTF	DEF	Incorporated or Principal Place of Business In This State	PTF	DEF																				
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)					
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)							
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File	

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 USC Section 1332 Brief description of cause: Personal injury due to negligence of Defendants
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	DEMAND \$ 75,000.00	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE _____ DOCKET NUMBER _____
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DATE 6/27/2018	SIGNATURE OF ATTORNEY OF RECORD /s/ Russell J. Pope, Bar No. 03645
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FOR OFFICE USE ONLY				
RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. **Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

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Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

____ District of _____

Defendant(s)

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: